FARAD CONTINUATION SHEET NO.
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE
NAGPUR BENCH, NAGPUR

First Appeal No. 151/2007

Appeal	District :
Application No.	of 200
Writ petition	

Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders.	Court's or Judge's orders

CORAM : Smt. V. A. Naik, J.
DATED : March 5, 2007.

Heard Shri Sonare, the learned A.G.P. for the appellant.

By this appeal, the appellant challenges the judgment passed by the Civil Judge, Senior Division, Khamgaon, on 27/7/2003, partly allowing the reference application filed by the respondent.

The respondent's land, admeasuring 75 R, bearing Gat No. 9 of Mouza Belkhed has been acquired by the appellant for the purpose of Dhorapgaon Project. The Section 4 notification was issued on 16/1/1997 and Section 6 notification was issued on 11/6/1998. The Land Acquisition Officer vide Award dated 15/1/1999, awarded compensation @ Rs. 20,000/- per hectare. The respondent being dissatisfied by the compensation awarded by the Land Acquisition Officer, made a reference application before the Collector, Buldhana, which was registered as Land Acquisition Case No. 12/2000 before the Civil Judge, Senior Division, Khamgaon.

The Civil Judge, Senior Division, Khamgaon, by

the impugned judgment dated 27/7/2003 granted compensation @ Rs. 55,000/- per hectare. Said judgment is challenged in the instant first appeal.

The respondent examined himself before the reference Court and also filed 7/12 extract of the field in question, extract of Index Register at Article A which showed the sale instances of the year 1996 to 2000. The respondent claimed compensation @ Rs. 1 lakh per acre. According to the respondent, his field was only 3 k.ms. away from village Dhorapgaon. The extract of Index Register showed the market value of the some of the lands sold by the villagers in the year 1993 to 1996 at Rs. 60,000/- to Rs. 70,000/- per acre. The sale instance dated 23/6/1995 pertaining to Gat No. 56 showed that the field in Gat No. 56 of Mouza Wadji was sold @ Rs. 49,382/- per hectare. The Land Acquisition Officer had considered some of the sale instances which took place prior to issuance of Section 4 Notification but did not grant compensation at the price which was fetched by the sale transactions as, according to the Land Acquisition Officer, those sale instances were pertaining to the lands which were irrigated and were having the fruit bearing trees. The reference Court considered the sale instances of Gat No. 56 which was effected much prior to the issuance of Section 4 Notification, to determine the market value of the land in question. The reference Court did not grant the compensation @ Rs. 49,382/- per hectare which was fetched by the earlier transaction as the reference Court held that the respondent did not produce anything on

record to show that his land was irrigated or was having any fruit bearing trees.

In view of the aforesaid facts, it is clear that after considering the entire oral and documentary evidence produced on record in its right perspective, the reference Court has granted the compensation @ Rs. 35,000/- per hectare. While considering the evidence tendered by the parties on record, the reference Court has rightly rejected the evidential value of the some of the transactions which were effected in the year 2000.

The approach of the reference Court in granting the compensation @ Rs. 35,000/- per hectare to the respondent is extremely reasonable and justified.

For the reasons aforesaid, the first appeal fails and is dismissed with no order as to costs.

JUDGE

RMP